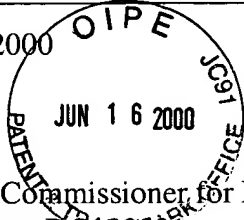


GP 1631



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June 16, 2000



Assistant Commissioner for Patents
Washington, DC 20231

Art Unit: 1631
Examiner: Y. Kim

Re: U.S. Utility Application No. 09/333,534
Filed: June 14, 1999
For: Nucleic Acid Molecules and Other
Molecules Associated with Plants
Inventors: Timothy W. CONNER *et al.*
Atty. Docket: 38-21(15404)B

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Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (PTO) are the following documents:

1. Response to Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038. A duplicate copy of this letter is enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dd R. Marsh'.

David R. Marsh (Reg. No. 41,408)

Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Timothy W. CONNER *et al.*

Appln. No.: 09/333,534

Filed: June 14, 1999

For: Nucleic Acid Molecules and Other
Molecules Associated with Plants



Art Unit: 1631

Examiner: Y. Kim

Atty. Docket: 38-21(15404)B

#4
Plunkett
7/3/00

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In the Office Action mailed May 18, 2000, the Examiner asserted that the present application failed to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 because no submission of computer readable form had been received with the above referenced application. On June 7, 2000, applicants' representatives discussed the Office Action with Examiner Marschel. Dr. Marschel confirmed that he had located the computer readable form and a substitute computer readable form was no longer required.

Additionally, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: claim 1 drawn to polynucleotides and compositions containing same, classified in class 536, subclass 23.1;

Group II: claim 2, drawn to polypeptides, classified in class 530, subclass 300 and 350;

Group III: claims 3- 7, drawn to a transformed plants, classified in class 800, subclass 295.

Applicants respectfully traverse the restriction requirement, and provisionally elect the claim of Group I (claim 1) for further prosecution.

Applicants submit that the complete examination of the application would be most expeditiously handled by treating all of the pending claims as a single entity. As Section 803 of the MPEP states, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” It is respectfully submitted that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. No serious burden is created, for example, when a simultaneous computerized search for the nucleic acids of Group I and the proteins of Group II is run. A single search may be run, for example, in conjunction with databases such as those available at <http://www.ncbi.nlm.nih>. In reality, a serious burden would arise if the application were restricted since the same references often describe both nucleic acid and protein.

Based on the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claim 1).

The Office Action further requires that, in the event that Group I is elected, no more than 10 specific sequences may be specified for examination. In view of Applicants' provisional election of Group I, and in the event that the restriction requirement is made final, it is hereby requested that the following 10 sequences be examined in this application:

SEQ ID NO: 1;
SEQ ID NO: 2;
SEQ ID NO: 3;
SEQ ID NO: 4;
SEQ ID NO: 5;
SEQ ID NO: 6;
SEQ ID NO: 7;

SEQ ID NO: 8;
SEQ ID NO: 9; and
SEQ ID NO: 10.

However, the election of the above sequences is made with traverse. The Examiner's restriction to 10 sequences is improper. Examination of sequences for 1425 *Arabidopsis* ESTs, all from leaf tissue, would not present an undue burden due to the interrelationship between the disclosed sequences.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicant's undersigned representative at (908) 684-8061.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 13-4125.

Respectfully submitted,

Linda T. Parker

Linda T. Parker (Reg. No. 46,046)
by David R. Marsh (Reg. No. 41,408)

Date: June 16, 2000

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by
David R. Marsh
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